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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/527,348      | 03/09/2005  | Jochen Hofmann       | 54105/DBP/M521      | 7185             |

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| EXAMINER |
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GARRETT, ERIKA P

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| ART UNIT | PAPER NUMBER |
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3636

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 04/03/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/527,348 | <b>Applicant(s)</b><br>HOFMANN ET AL. |  |
|                              | <b>Examiner</b><br>Erika Garrett     | <b>Art Unit</b><br>3636               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-33 and 46-49 is/are rejected.
- 7) ☒ Claim(s) 34-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 26-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 26 recites the limitation "latter" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-8, 11, 13-20, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (5,520,440). Lee discloses the use of a seat assembly for a motor vehicle seat, comprising a seat frame (110) which defines a seat surface (120) for a motor vehicle occupant; and a pivotally mounted backrest (130) which is foldable about a pivot axis (142a) onto the seat surface, wherein the pivot axis is moveable along a predetermined path when the backrest is folded forward onto the seat surface; wherein the backrest is additionally connected outside the pivot axis to a frame subassembly in an articulated manner. In regards to claim 2, wherein the pivot axis is formed by a

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physical subassembly (141) of the seat assembly. In regards to claim 4, the pivot axis is positively guided along the predetermined path when the backrest is folded forward, see figure 3. In regards to claim 5, the pivot axis guided by a guide device (141a) that extends along a predetermined path. In regards to claims 6 and 14, the guide device formed by a guide slot, see figures 2-3. In regards to claim 7, Lee further discloses the use of a seat assembly for a motor vehicle seat, comprising a seat frame (110) which defines a seat surface (120) for a motor vehicle occupant; and a pivotally mounted backrest (130) which is foldable about a pivot axis (142a) onto the seat surface, wherein the pivot axis is moveable along a predetermined path when the backrest is folded forward onto the seat surface; the pivot axis (142a) is positively guided by a guide element (slot) which the pivot axis is connected to a frame subassembly and which is moved when the backrest is folded forward (by lifting the backrest upward, it will fold toward the seat bottom). In regards to claim 8, the guide element is an elongated body (figure 3). In regards to claim 11, the backrest is connected outside the pivot axis to the frame subassembly via a coupling element (150) extends from the backrest to the frame subassembly and is moved when the backrest is folded forward, see figure 6. In regards to claim 13, the backrest is connected outside the pivot axis to the frame subassembly via a guide device guides a section of the backrest when it is folded forward. In regards to claim 15, the movement of the pivot axis along the predetermined path when the backrest is folded forward is controlled by the interaction of the backrest with the frame subassembly outside the pivot axis, as shown on figures 3 and 6. In regards to claim 16, wherein the pivot axis is positively guided along the

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predetermined path by a guide device stretched out along this path or by a guide element via which the pivot axis is connected to the frame subassembly, and wherein the movement of the pivot axis along the predetermined path is controlled by a coupling element or by a guide device, by which element or by which device the backrest is connected outside the pivot axis to the frame subassembly. In regards to claim 17, wherein the pivot axis is moved on a closed path (located in the slot) when the backrest is folded forward, as shown on figure 3. In regards to claim 18, the pivot axis is moved from one end to another end of an open curved path and back to the first end of the curved path when the backrest is folded forward, as shown on figure 6. In regards to claim 19, when the backrest is folded forward, the pivot axis (142a) is moved, at least during part of the folding movement, along a direction essentially opposed to the direction of the folding movement. In regards to claim 20, further comprising means (143a) for locking the pivot axis in a position, which corresponds to a backrest, swung up into a use position (figure 6), and/or in a position corresponds to a backrest folded forward onto the seat surface. In regards to claim 22, further comprising an adjusting device (143) to adjust an inclination of the swung-up backrest between various use positions.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3,9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Premji (5,383,710). Lee fails to show the use of a bearing spindle, guide lever and coupling lever. Premji teaches the use of a bearing spindle (110), guide lever and coupling lever (30,36). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat assembly with a spindle and lever as taught by Premji, in order to move the backrest forward.

8. Claims 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Tame (5,927,809). Lee fails to show the use of locking lever. Tame teaches the use of a locking lever (74). It would have been obvious to one of ordinary skill in the art at the time of invention to modify seat assembly as taught by Tame, in order to lock the backrest.

9. Claims 28-34 and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Wakamatsu (5,918,940). Lee discloses the use of a seat assembly for a motor vehicle seat, comprising a seat frame which defines a seat surface for a motor vehicle occupant; and a pivotally mounted backrest which is foldable about a pivot axis onto the seat surface, wherein the pivot axis is moveable along a predetermined path when the backrest is folded forward onto the seat surface. Lee fails to show the use of spring arrangement acting on a gear element. Wakamatsu teaches the use of spring (24) arrangement acting on a gear element (11,12). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat

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assembly with a spring and gear element as taught by Wakamatsu, in order to adjust the backrest forward.

***Allowable Subject Matter***

10. Claims 34-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-9 and 11-49 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 9:00 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EG

March 28, 2007

A handwritten signature in black ink, appearing to read 'D Dunn', with a long horizontal stroke extending to the right.

DAVID DUNN  
SUPERVISORY PATENT EXAMINER